

LICENSES AND PERMITS

3335

(Sept 1999)

INTRODUCTION

3335.1

(Sept 1999)

Some individuals, corporate entities, and nearly all public agencies insist upon use of their own agreement form. Needless to say, some of these forms do not satisfy the requirements of DGS and must then be prepared by the grantor in a format acceptable to DGS.

Construction of improvements must not begin unless bona fide control of the land has been acquired and its acceptance as a project in the State Fire Plan has been completed.

U. S. FOREST SERVICE (USFS)

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(Sept 1999)

USFS Forms Issued To CDF

(Sept 1999)

- Special Use Permits, USFS Form 2700-4.
- Term Special Use Permit, USFS Form 2700-5.
- Easement for Power Lines, USFS Form 2750

Additionally, there is a "General Cooperative Agreement" for the use of existing USFS facilities and lands.

The choice between Special Use and the Term Special Use Permits rests in the degree of tenure deemed important for the proposed facility. Special Use permits are useful for less important improvements such as fire access truck trails, fuelbreaks, telephone lines, and water tanks. Term Special Use permits, with their 30-year tenure of use, are mandatory for facilities such as conservation camps, forest fire stations, lookouts, radio repeater stations, and like facilities, which are of critical importance to CDF's activities.

Application Procedures

To obtain either a Special Use or Term Special Use Permit, the regional chief applies directly to the forest supervisor using the USFS Form FS-866a.

Authority to issue and sign Special Use Permits rests with the Forest Supervisor; for Term Special Use Permits, the authority to issue and sign rests with the regional chief of the USFS. Acceptance by the state rests with DGS. The permit must be drawn to the State of California and may state for the benefit of CDF or its successors.

Charges

Both types of Permits are normally issued without charge or at nominal fee. It has been department policy to make every effort to obtain free permits, requiring the filing of a Fire Plan which would show that the benefits accruing to USFS are commensurate with or exceeds the fair rental value of the land occupied.

Copies and Attachments

An original and four copies of each agreement must be submitted to Technical Services. If there is reference to a map in the body of the permit, a copy of the map must be attached to each copy of the permit.

Easements for Power Lines

Application for power lines across U.S. Forest Service lands must be made to the USFS regional office by Technical Services. Make the application in quadruplicate on Forest Service Form E-100, and have the signature on the application notarized.

The easement normally is for a period not to exceed 50 years. The width may be a maximum of 200 feet on each side of the centerline of the power line, which is located by survey, and tied to existing section corners and property lines.

Term Special Use Permit Radio

When Term Special Use Permits are obtained for radio communication site purposes, CDF Telecommunications will fill out Form 2700-10, Technical Data, regarding transmitting and receiving frequencies and other required data. This form becomes part of the permit.

General Cooperative Agreement

There is a General Cooperative Agreement between USFS and CDF. This agreement provides for joint or separate use of existing fire control facilities such as warehouses, communication facilities, etc. It does not include the use of land or land rights beyond that which is needed during the period of an emergency.

Recordable USFS Permits

CDF has been advised by DGS that it isn't necessary to record federal permits and leases. Federal recognition of the conveyance is sufficient. The following instructions apply if recordation is requested by USFS:

- Make extra copies of such for CDF and DGS suspense files, when the package is sent to them for approval.
- When USFS agreements are returned to the district for the Forest Supervisor's signature or when the completed document is returned to the district for recordation and return, it is imperative to maintain a suspense copy in the facility folder. Actual recordation is accomplished by RESD unless delegated to CDF on a case by case basis.

All agreements due for recordation should have a "State Acceptance for Recordation" form from DGS, RESD attached for signature on behalf of the department.

- Have notarized all agreements, which are to be recorded.
- File a copy of all recorded documents into the State Real Property inventory, as compiled by DGS RESD.
- Mark the original Special Use permit "Permitees Copy" before forwarding it to the forest supervisor for his signature.

U.S. BUREAU OF LAND MANAGEMENT

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Apply for the type of agreement, which will provide the minimum acceptable functional right, the greatest ease of acquisition, the least number of restrictions.

To lessen the environmental impact of structural clutter on its lands, BLM has asked those engaged in identical activities, such as communications, to share facilities wherever practical.

Other parties and agencies are being referred to CDF as applicants for co-use of radio vaults and access roads.

Listed below are the BLM documents recommended for the various CDF activities.

The Bureau of Land Management defines "Right-of-Way" to include the following: license, permit (or easement, as the case may be) and where applicable, "site.

Rights-of-Way

Rights-of-way are granted under Title V of the Federal Land Policy and Management Act of October 21, 1976 (P.L. 94-579, 90 Stat. 2743). The Bureau encourages applicants for rights-of-way to contact their nearest BLM District Office prior to submission of application for aid in identifying potential constraints or land-use conflicts.

Application

Applications for rights-of-way are submitted to the BLM District Office of concern. The application should be typewritten, identifying CDF as the applicant, and should provide a contact person and telephone number. The application must state the intended use of the requested land, and fully describe the facility to be constructed. The application should also state the desired term of the grant and expected lifetime of any associated facilities or structures.

The applicant's letter must contain a statement acknowledging that the applicant will be bound by the applicable regulations contained in Title 43 of the Federal Code of Regulations, Group 2800 (43 CDF 2800), as they exist or as amended.

Also required with the application is a map drawn on tracing linen, mylar, or other suitable material. The map scale must be such that all of the required information shown is legible. The map should have a north arrow and should clearly and properly note all subdivisions, sections, township's, and ranges crossed by the right-of-way. The ownership of each subdivision of the official survey should be marked "U.S.," "Fee" or "State."

In addition, maps for linear rights-of-way must show as a minimum the following information: (1) the bearings and distances of the traversed line or the true centerline of the facility as constructed, (2) stationing points where the proposed right-of-way enters or leaves public land, (3) at least one tie to a public land survey monument either at the beginning or ending point of the right-of-way, and (4) the exterior limits and width of the right-of-way. Maps for nonlinear rights-of-way should also include (1) the bearing and distance of each exterior sideline of the site, and (2) at least one point of the survey tied to a public land survey.

At least three copies of each map or drawing should be provided with each application.

When the authorization is for use of an existing road controlled by the United States, any map showing that road will suffice: the previous, detailed map information will not be required.

If an application involves the diversion, pumping, or storage of water, evidence of the associated water rights must be submitted with the application.

An applicant for an electric power line right-of-way must state the voltage of the line and describe the sources of the power to be delivered. The overall effects on the supplying power grid must be explained. Pole configurations must be shown in detail so that raptor protection can be verified. Part 2804 of the regulations contains several other requirements pertaining to transmission facilities having a voltage of 66 kilovolts or more.

An applicant for a communication site right-of-way must submit technical information in accordance with the requirements of the Federal Communications Commission. Standard forms are required and should be obtained in advance. Construction techniques and equipment to be used should be described. If alternative routes have been considered and rejected, an analysis of the reasons should be provided. If significant environmental disturbance is anticipated, a plan of construction, operation and rehabilitation must be submitted with the application.

When the facility will be shared with other state agencies, DGS must apply in the name of the State of California. An accompanying map will also be required as part of the application process. CDF must prepare the map and transmit it to DGS.

Where CDF has an access right to a mountain top, by virtue of an agreement with BLM, CDF's licensees or permittees need no further clearance from BLM to use the access road, once constructed.

Special Land Use Permit

Where the nature of the activity does not require a long-term easement, application for a Special Land Use Permit should be considered in lieu of a grant under the Easement Act of March 4, 1911.

Examples of facilities which lend themselves to such application are water tanks, spring sites, and fuelbreaks within a grazing district (grazing districts do not fall under the provisions of the Cooperative Fire Protection Agreement between BLM and CDF).

This revocable permit is usually issued for a period of five years, and application for renewal will usually be accepted for another period of five years.

The BLM District Manager has delegated authority to issue a Special Land Use Permit without reference to the Land Office.

U.S. BUREAU OF INDIAN AFFAIRS (Sept 1999)

3335.4

Organization

For the purposes of administration, the Bureau of Indian Affairs has divided the state into three agencies and one area field office.

The Hoopa Agency administers all trust land in the counties of Del Norte, Shasta, Siskiyou, and Trinity. The agency office is located at P.O. Box 367, Hoopa, California 95546. Mail should be addressed to "Superintendent, Hoopa Agency."

The Central California Agency administers all trust lands in California north of Bakersfield, with the exception of the five counties administered by the Hoopa Agency. The agency office is located at 1800 Tribute Road, P. O. Box 15740, Sacramento, California 95813.

The Southern California Agency is responsible for all trust lands south of Bakersfield, with the exception of the Agua Caliente Reservation (Palm Springs) in Riverside County. The agency office is located at 5750 Division Street, Suite 201, Riverside, California 92506.

The Palm Springs Field Office has jurisdiction over the Agua Caliente Reservation (Palm Springs) in Riverside County, P. O. Box 2245, Palm Springs, California 92262.

**General
Considerations**

Title 25 of the Code of Federal Regulations, 25 CFR Indians, contains the rules and regulations as established by the U.S. Department of Interior, Bureau of Indian Affairs (BIA) for the administration of lands owned or held in trust for Indian individuals, groups, or tribes. A copy of CFR 25 Indians is available in paperback edition from the Superintendent of Documents, Washington, D.C. 20402. The rules pertinent for CDF consideration are contained in subchapter L. Part 131--Leasing and Permitting.

CDF's projects will be constructed under rights granted by a permit conveying a nonassignable privilege to perform a specific act within a specific area of land. This permit is subject to cancellation at the discretion of the Secretary of the Interior, and it may grant CDF presence on Indian land for a time period from five to twenty-five years.

CDF may expect free use of the land for its facilities, when it can be shown that the benefits derived from the fire protection facility are commensurate to or exceed the fair rental value of the grant of easement.

Care in selecting locations, which will provide the greatest mutual benefit, and considerations as to possible future relocations of facility, will aid in negotiations.

Preliminaries

No initial contact should be made with any individual Indian or tribal official except as provided below. It is important that all contacts and negotiations be with the authorized representative(s) of the land owner(s).

Indian land is held under several kinds of estates, varying from individual ownership in fee to group ownership, with the land held in trust by the United States. (See 25 CFR 131.1)

Each land-holding requires its own special procedure for securing its land-use right. Only the BIA is qualified to guide one through the correct procedures.

When the County Assessor's records indicate an Indian parcel in the desired area, the initial contact must be with the Indian Agency or Field Office for that area. They will provide the tribal name (if any), the allotment number of each parcel involved in the project, and the name(s) of the individual(s) authorized to review the easement agreement and recommend approval or revision, as well as the conditions of use. The local BIA Agency or Field Office will also render aid to review the proposed agreement, recommend the format acceptable to the Indian individual or group, and advise in the proper presentation of the application form.

The region may thereafter contact the indicated individuals and negotiate a mutually acceptable fire prevention facility location and the conditions of use.

Application

Upon completion of negotiations and determination of a mutually satisfactory location and design, the region will undertake the following:

- Prepare appropriate maps and documents.
- Obtain signature(s) of the appropriate individual(s) on documents and maps.
- Submit project maps, documents, and application to the appropriate BIA entity or office.

Map

Requirements

A photocopy of a portion of a USGS 7-1/2 minute Topographic Quadrangle, with the facility and ownership limits identified by lines, symbols, and notation would be acceptable. A termini or corner of the facility or site should be referenced to the nearest corner of public survey.

The map must show the allotment number of each tract of allotted land and designate each tract of tribal land affected, indicating the sections, townships, and ranges in which the lands crossed by the easement are situated, as well as a north arrow, scale of measure, a CDF title block, and file data.

Preferred map size is 8-1/2" x 11" or 11" x 17", so long as the required details can be clearly shown at this scale.

Completion Factors

After Technical Services returns the fully approved documents, the region may proceed with the construction of the project. The region will notify Technical Services immediately upon

- Completion of construction.
- Termination of construction activity for periods in excess of six months, for uncompleted projects, with explanation.
- Any indicated dissatisfaction by grantor of easement, or any disagreement over construction methods or facility location.

SPECIAL LANGUAGE

3335.5

(Sept 1999)

Technical Services keeps an up-to-date file on all clause language that could and should be used within documentation. It is advised that this reference be consulted before making any change in standard acceptable clauses used in any document.

STATE FORMS TO BE USED

3335.6

(Sept 1999)

STD.6

The form used by RESD to report progress made and current status of a "Space Action Request," and to acquire departmental approval of negotiated terms prior to final execution of the lease of real property.

STD 9	<p>“Space Action Request” form which is completed by CDF and submitted to RESD to request their action on a new or existing lease of space provided for CDF.</p> <p>Request must contain justification, area required, number of employees to be housed, special needs, location preferences, and contact persons, if any, and should be approved by the regional chief and then forwarded to Technical Services. The form must be signed by a deputy director to be acceptable to RESD.</p>
STD 15	A universally used “Contract Transmittal and Pre-Evaluation” form.
A-19	Agreement. The accepted form to be used for all acquisition of temporary rights. The form may be recorded for permanent rights, if accepted by DGS.
BSL-102C (CDF)	“By-State Lease,” permitting the Director of DGS, with CDF approval, to lease CDF contracted or owned communication facilities, land or roads to others (nonstate and nonfederal).
BSL-102C (FED)	A “By-State Lease,” same as above except limited to use with U.S. government agencies.
COM-310	A standard application (on one side) and permit (on the other side) for interagency use of communications space or facilities.
TD-312	An application for a communication site or facility use by all non-state applicants, such as, local agency/federal users and private entities.

SPECIAL FORMS

GRANTOR	AGREEMENT Form	APPLICATION Made by	Grantor's Signatory
Private Individual	A-19s	Region	Landowners of Record
USFS	Special Use Permit Term Special Use Permit	Region	Forest Supervisor
S.P. Company	Their Permit Form	Land Unit	Resource Manager
BLM	Their Permit Form	Region	District Manager
BIA	Their Permit Form	Region	Indian Agent/Tribal resolution
Wm. Beatty & Assoc	A-19 or CDF	Region	W.M. Beatty Permit Form
Division of Water	Their Application	Lands Unit	Application signed by Region
Other State Agencies	Their Permit Form	Lands Unit	Various
Municipalities	CDF Permit Form	Lands Unit	City Official
Counties	CDF Permit Form	Lands Unit	County Board of Supervisors

**FORMS AND/OR FORMS SAMPLES: RETURN TO ISSUANCE HOME PAGE
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